

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SHELLI SIMMONS,

Plaintiff,

V<sub>a</sub>

MICHAEL J. ASTRUE, Commissioner of  
the Social Security Administration,

Defendant.

CASE NO. 12-cv-05121 BHS

REPORT AND RECOMMENDATION  
ON STIPULATED MOTION FOR  
REMAND

This matter has been referred to Magistrate Judge J. Richard Creaturea pursuant to 28

U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by Mathews,

Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on

19 defendant's stipulated motion to remand the matter to the Commissioner for further

20 || consideration. (ECF No. 13.)

21 After reviewing defen-

After reviewing defendant's stipulated motion and the relevant record, the undersigned

<sup>22</sup> Recommends that the Court grant the parties' motion, and reverse and remand this matter to the

23 Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).

1 The administrative law judge issued an unfavorable decision on March 22, 2011. On  
2 April 27, 2011, Plaintiff's representative submitted her request for review, asking for a copy of  
3 the hearing recording and a copy of the final exhibit file, together with an extension of time after  
4 receipt of those materials to submit a legal brief. Plaintiff's representative did not receive a copy  
5 of the final hearing or exhibit file, and the Appeals Council issued a denial notice on December  
6 12, 2011.

7 Due to these facts and the parties' stipulation, this matter should be remanded. On  
8 remand, the Appeals Council should vacate the December 12, 2011 Appeals Council denial  
9 notice and send Plaintiff's representative a copy of the hearing recording and final exhibit file.  
10 Plaintiff's representative should be given additional time to submit a legal brief and Plaintiff's  
11 request for review should be reconsidered.

12 Following proper presentation, the Court will consider Plaintiff's application for attorney  
13 fees pursuant to the Equal Access to Justice Act and 406(b) if appropriate.

14 Given the facts and the parties' stipulation, the Court recommends that the District Judge  
15 immediately approve this Report and Recommendation and order the case be **REVERSED** and  
16 **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

17 Dated this 18th day of June, 2012.

John G. Hartman

J. Richard Creature  
United States Magistrate Judge